



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6

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DALLAS TX 75202-2733

APR 26 2012

Mr. Jim Davis, Director
Resource Protection Division
New Mexico Environment Department
1190 St. Francis Drive
Santa Fe, New Mexico 87505

Dear Mr. Davis:

The purpose of this letter is to provide the New Mexico Environment Department (NMED) with an agreed upon list of Clean Water Act (CWA), Section 106 priorities for Fiscal Year (FY) 2013. Our goal for the FY 13 Section 106 work planning process was to work collaboratively with NMED to clearly define agreed upon priorities prior to the State revising the FY 13 work plan. It is my hope that the joint upfront planning by both EPA and the State on identifying priorities has made the development of the FY 2013 Section 106 work plan more efficient. On February 29, 2012, EPA transmitted via electronic-mail, a list of priorities to NMED process. On April 12, 2012, EPA and NMED reached an agreement on the FY 13 work plan priorities. Enclosed is a table of the agreed-upon priorities for NMED to include in the FY 13, Section 106 work plan.

The CWA, Section 106 FY 13 base funding target amount for NMED is \$1,630,000 while the Section 604(b) funding target amount for FY 13 is \$100,000. Both amounts are based on the FY 12 allotments. Please note that these suggested targets are strictly for planning purposes since the FY 13 budget has not been approved. The Region would like NMED to submit the revised work plan for the FY 13 Section 106 funds by June 1, 2012 and the 604(b) application and work plan by October 15, 2012.

The EPA Headquarters continues to recommend that States devote at least 15% of the Section 106 target amount to ground water activities. Region 6 views the 15% for ground water as an acceptable minimum, recognizing that in some States, where ground water protection needs may be greater, a higher percentage may be appropriate. If NMED would like to utilize the allocation differently, we are available to discuss your proposal. Region 6 wants to ensure that decisions regarding resource allocation reflect the extent of identified water quality impairments.

The EPA continues to believe that a strong monitoring program is essential to any State water quality program. NMED should continue implementing their monitoring strategy. In previous years, Congress has targeted a portion of the Section 106 funds for water quality monitoring in order to strengthen State water quality programs. Specific guidelines for award of these funds, the National Monitoring Initiative, were published in the Federal Register on March 29, 2006, and amended on July 17, 2008. The supplemental Section 106 funds have two components: 1) to enhance State water monitoring programs consistent with their monitoring strategies and 2) to participate in statistically-valid surveys. In the past, funds to implement the State's monitoring strategy have been allotted equally to the States, nationally,

and the statistically-valid surveys have been funded based on the number of sample sites. It is expected that additional funds will be identified later this year to assist with this effort, as in previous years. The anticipated FY 12 and 13 funding will address the assessment of rivers and streams. EPA is requesting that a two-year application and work plan be submitted to the Region by June 1, 2012 for the FY 12 and 13 Monitoring Initiative funding cycle. More detailed information regarding the statistically-valid surveys and available funding will be provided at a later date.

As a reminder, all Section 106 and 604(b) grants with a budget/project period starting date of October 1, 2012 or later must follow the EPA's Grant Policy Issuance (GPI) 11-03, "State Grant Work plans and Progress Reports." Under this policy, grant work plans and progress reports must include and prominently display the following three Essential Elements: 1) the Strategic Plan Goal, 2) the Strategic Plan Objective, and 3) the work plan commitments with the time frame. The policy also applies to interim and final progress reports. For additional information, please visit the following Web site: http://www.epa.gov/ogd/grants/final_grants_policy_issuance_11_03_State_Grant_Workplans.pdf

For additional information and background regarding EPA's priorities for FY 13, we recommend that NMED review the FY 13 National Program Guidance, available at <http://www.epa.gov/cfo/npmguidance/index.htm>. This site includes the FY 13 Program Activity Measures as well as specific Section 106 guidance. In addition, you may wish to consult the EPA Strategic Plan, located at <http://www.epa.gov/water/waterplan>.

We are available to discuss any ideas you may have regarding mechanisms and strategies to best direct this funding toward targeted water pollution control and water quality management activities that will strengthen watershed restoration efforts. You may contact Troy Hill at (214) 665-6674 or have your staff contact their project officer with any questions about Sections 106 and 604(b) planning for FY 13. We appreciate the efforts of your Agency in protecting the environment and public health.

Sincerely,



William K. HPE.

Regional Director

Water Quality Protection Division



Enclosure

cc: Mr. James Bearzi, SWQB, NMED
Mr. Jerry Shoepner, GWQB, NMED

Priority Areas		EPA/NMED FY 13 Surface Water Program Priorities	
/Water Quality Standards: Nutrient Criteria Development		1. Nutrient Criteria Development: -implement nutrient criteria plan	
2. Monitoring and Assessment:		<p>1. Evaluation of National Rivers and Streams Assessment Data</p> <p>EPA Region 6 will evaluate National Rivers and Streams dataset collected in New Mexico and provide statistically valid conclusions regarding the quality of New Mexico's rivers and streams. The results of this analysis will at a minimum be summarized for inclusion by NMED in the State's §303(d)/§305(b) Integrated Report for the 2014 reporting cycle.</p> <p>*****</p> <p>*NOTE: For those states not implementing state-scale surveys, a 20% rescission may result in the Monitoring Initiative funds used for building monitoring capacity (100% equals \$169,900 per state). The rescissions will be reallocated among those states implementing state-scale statistical surveys. For additional information please see <i>Guidelines for the Award of Monitoring Initiative Funds under Section 106 Grants</i> available at http://water.epa.gov/grants_funding/lcwfl/06-guidelines-monitor.cfm.</p>	
3. Cross Program Priority Watersheds and Documenting Watershed Restoration Successes		Comment Noted	
4. TMDLs: Meet or exceed pace or PAM commitment		<p>1) The State should meet or exceed NM PACE# of 22 TMDLs.</p> <p>2) The State should prioritize the completion of any legacy TMDL projects that have been on the 303(d) for 13 years or more.</p>	
5. Enforcement:		<p>1. Identification/Inspection of CAFOs meeting the Federal definition in the state and ensure proper implementation of nutrient management plans.</p> <p>- NMED in consultation with EPA's Enforcement Branch commits to conducting limited CAFO compliance inspections during FY 13. These may include racetracks located in proximity to WUS</p>	

	as well as other CAFOs where, due to substantiated reports from the general public or other agencies, there is a high likelihood that discharges to a WUS have occurred, or may occur.
Priority Areas (continued)	EPA/NMED FY13 Surface Water Priorities
<i>Enforcement:</i>	<p>2. Identification/Inspection of natural gas production facilities that may be causing or contributing to public health or water quality issues in the state.</p> <p>- NMED on consultation with EPA's Enforcement Branch commits to conducting limited compliance inspections at oil and natural gas production facilities during FY 13. These may include facilities where, due to substantiated referrals from the general public or other agencies, including reports of discharges of produced water, there is a high likelihood that discharges to a WUS have occurred, or are occurring.</p>
<i>Enforcement:</i>	<p>3. Inspection of major facilities and oversight of ongoing construction schedules to bring about significant reductions in SSOs in the state.</p> <p>- NMED will continue to satisfy the current 106 grant commitment for inspections of major NPDES permits and generally this includes a review of SSOs and any compliance schedules in the permit or included in an enforcement action.</p>
<i>Enforcement:</i>	<p>4. Implementation and inspection of MS4 programs to protect water quality.</p> <p>- NMED will assist EPA inspection staff to the extent practical during MS4 inspections at EPA's specific request.</p>

Priority Areas	EPAJNMED FY 13 Ground Water Program Priorities
1. <i>Coordination efforts</i>	1. <u>Coordination efforts:</u> integrate programs such as the TMDL program, the Class V Underground Injection Control program, and source water protection programs.
2. <i>Ground water monitoring & modeling</i>	2. Ground water <u>monitoring & modeling:</u> information management and analytical work that supports the State's efforts to create aquifer baseline monitoring with continued monitoring to track aquifer conditions; also support a comprehensive approach such as watershed or basin-wide planning.
3. <i>Outreach and education programs</i>	3. Outreach and education programs: designed to enhance public awareness of ground and source water protection.
4. <i>Source water protection</i>	<p>4. Implement source water protection actions: protect both ground water and surface water used as an existing or potential source of drinking water; ensure that water quality standards are in place that are protective of human health and are being attained for each water body designated as a source of public water supply; consider using pre-treatment water quality data or compliance monitoring data collected by public water supply systems in assessing water quality and determining impairment.</p> <p>Also consider placing a high priority on:</p> <p>(a) protection areas where state or local source Water assessments have identified HIGH susceptible sources of drinking water and</p> <p>(b) the development and substantial implementation of source water protection programs that address impairments of the public water supply designated use. In particular, states should take steps to ensure that its point source discharge programs are fully integrated with its source water and ground water protection programs.</p>

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